

Applicant(s): Picciallo
Application No: 10/695,561
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REMARKS

This amendment is submitted with a Request for Continued Examination in response to the final Official Action mailed November 6, 2006. In view of the following remarks, reconsideration by the Examiner and allowance of the application is respectfully requested.

In the final Official Action, Claims 1 – 4, 7, 10, 11, 13, 14 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oncken et al., U.S. Patent No. 4,725,719 in view of Nakano et al., U.S. Pat. No. 5,845,260. Oncken et al. was cited as disclosing every feature of Claim 1 and the rejected dependent claims except for parental restriction of spending any funds on restricted classes of goods and services such as alcohol and tobacco. Nakano et al. was cited as disclosing this. This rejection is respectfully traversed for the reasons set forth hereinafter.

Nakano et al. is not prior art against the present application. The application from which the Nakano et al. patent issued was filed in the U.S. Patent and Trademark Office on January 24, 1996, which is the earliest possible prior art date that can be used for the Nakano et al. patent. Although the Nakano et al. patent claims priority benefit of an application filed in Japan on February 6, 1995, under the Hilmer Doctrine no benefit is given to the earlier filing date. In re Hilmer, 349 F.2d 859, 149 USPQ 480 (CCPA 1966).

The Examiner acknowledges that claims 1, 2, 4, 7, 13 and 14 enjoy the April 16, 1996 priority date of Applicant's U.S. Patent Application Serial No. 08/585,173. The '173 Application was originally given a January 11, 1996 "receipt date" by the U.S. Patent and Trademark Office. On March 15, 1996 a "Notice to File Missing Parts on Application – No Filing Date" was issued by the Patent Office, on which this receipt date was noted and the '173 Application Serial No. was assigned. A copy of this document is enclosed. Applicant re-submitted the Application with a claim and drawings and received the April 16, 1996 filing date.

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These documents, which are in the possession of the Patent Office, demonstrate that Applicant conceived of the presently claimed subject matter before the January 24, 1996 filing date of Nakano et al. and constructively reduced it to practice no later than April 16, 2006, well within the deadline established by the Patent Office for Applicant to supply the Missing Parts of the '173 Application. Until he received the March 15, 1996 Notice from the Patent Office, Applicant had no idea that his Application was not qualified to receive a filing date. After that he promptly resubmitted a qualifying application.

Applicant's earlier conception and subsequent diligent constructive reduction to practice disqualifies Nakano et al. as prior art against the presently claimed invention. The Examiner acknowledges that features of the presently claimed invention are not taught or suggested by Oncken et al. and are only disclosed by Nakano et al. Stated another way, the rejected claim are not obvious in view of Oncken et al. alone under 35 U.S.C. §103(a). Accordingly, by disqualifying Nakano et al. as prior art the rejection of Claims 1-4, 7, 10, 11, 13, 14 and 18 under 35 U.S.C. §103(a) as unpatentable over Oncken et al. in view of Nakano et al. has been overcome. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Finally, Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Oncken et al. in view of Nakano et al., and further in view of Hilt et al., U.S. Pat. No. 5,465,206. The Examiner acknowledged that Oncken et al. and Hilt et al. did not disclose information being supplied by e-mail, but cited Hilt et al. as disclosing this. This rejection is respectfully traversed for the reasons set forth hereinafter.

The rejection of Claim 12 is also overcome by disqualification of Nakano et al. as prior art for the reasons given above with respect to the other rejected claims. Accordingly, reconsideration by the Examiner and withdrawal of the rejection of Claim 12 as obvious under 35 U.S.C. §103(a) in view of the cited combination of prior art is also respectfully requested.

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Accordingly, in view of the foregoing remarks, this application is now in condition for allowance. Reconsideration is respectfully requested. The Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved. Finally, if there are any additional charges in connection with this response, the Examiner is authorized to charge Applicant's deposit account number 19-5425.

Respectfully submitted,

/Peter J. Butch III/
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO/TITLE
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08/585,173 03/11/96 PIOTALLO

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MICHAEL J PIOTALLO
801 CARLYLE DR
BAYVILLE NJ 08721

04/22/96/13

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DATE MAILED:

03/15/96

NOTICE TO FILE MISSING PARTS OF APPLICATION

NO FILING DATE

(Enclosure to Form PTO-1123)

Required items 1-9 below SHOULD be filed, with any items required on the "Notice of Incomplete Application" enclosed with this form. The filing date of this application will be the date of receipt of the items required on the "Notice of Incomplete Application." If items 1 and 3-6 below are submitted after the filing date, THE PAYMENT OF A SURCHARGE OF \$_____ large entities or \$_____ for small entities who have filed a verified statement 37 CFR 1.27 claiming such status will also be required. (37 CFR 1.16(e)).

The total amount owed by applicant as a large entity small entity (verified statement filed) is \$ 10.00.

1. The statutory basic filing fee is: missing insufficient. Applicant as a large entity small entity must submit \$_____ to complete the basic filing fee.
2. Additional claim fees of \$_____ as a large entity, small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.
3. The oath or declaration:
 is missing.
 does not cover items required on "Notice of Incomplete Application."
An oath or declaration in compliance with 37 CFR 1.63, referring to the above Application Number and Receipt Date, is required.
4. The oath or declaration does not identify the application to which it applies. An oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Receipt Date, is required.
5. The signature(s) to the oath or declaration is/are: missing; by a person other than the inventor or a person qualified under 37 CFR 1.42, 1.43, or 1.47. A properly signed oath or declaration in compliance with 37 CFR 1.63, referring to the above Application Number and Receipt Date, is required.
6. The signature of the following joint inventor(s) is missing from the oath or declaration: _____ An oath or declaration signed by the omitted inventor(s), identifying this application by the above Application Number and Receipt Date, is required.
7. A \$_____ processing fee is required since your check was returned without payment. (37 CFR 1.21(m)).
8. The application does not comply with the Sequence Rules. See attached Notice To Comply with Sequence Rules 37 CFR 1.821-1.825.
9. Other:

Direct the response and any questions about this notice to, Attention: Application Processing Division, Special Processing and Correspondence Branch.

A copy of this notice MUST be returned with the response.

B C M



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/585,179	01/11/96	PICCIALLI	M

MICHAEL J PICCIALLI
50 CARLYLE DR
BAYVILLE NJ 08721

0222/0315

0000

DATE MAILED:

01/11/96

NOTICE OF INCOMPLETE APPLICATION

A filing date has NOT been assigned to the above identified application papers for the reason(s) shown below.

1. The specification (description and claims):
 - a. is missing
 - b. has pages _____ missing
 - c. does not include a written description of the invention.
 - d. does not include at least one claim in compliance with 35 U.S.C. 112.

A complete specification in compliance with 35 U.S.C. 112 is required.

2. A drawing of Figure(s) _____ described in the specification is required in compliance with 35 U.S.C. 111.
3. A drawing of applicant's invention is required since it is necessary for the understanding of the subject matter of the invention in compliance with 35 U.S.C. 113.
4. The inventor's name(s) is missing. The full names of all inventors are required in compliance with 37 CFR 1.41.
5. Other:

All of the above-noted items, unless otherwise indicated, must be submitted within TWO MONTHS of the date of this notice or the application will be returned or otherwise disposed of. Any fee which has been submitted will be refunded less a \$_____ handling fee. See 37 CFR 1.53(c).

The filing date will be the date of receipt of all items required above, unless otherwise indicated. Any assertions that the items required above were submitted, or are not necessary for a filing date, must be by a petition directed to the attention of the Office of the Assistant Commissioner for Patents accompanied by the \$_____ petition fee (37 CFR 1.17(h)). If the petition states that the application is complete, a request for refund of the petition fee may be included in the petition.

Direct the response and any questions about this notice to, Attention:
Application Processing Division, Special Processing and Correspondence Branch.

A copy of this notice MUST be returned with the response.

Enclosed:

- "General Information Concerning Patents." See page _____
 Copy of a patent to assist applicant in making corrections.